

BEFORE THE BOARD OF PUBLIC EDUCATION
OF THE STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 10.56.101 relating to) PROPOSED AMENDMENT
assessment)

TO: All Concerned Persons

1. On August 21, 2012 at 9:00 a.m., the Board of Public Education will hold a public hearing in the Superintendent's conference room at 1227 11th Avenue, Helena Montana, to consider the proposed amendment of the above-stated rule.

2. The Board of Public Education will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than 5:00 p.m. on August 7, 2012 to advise us of the nature of the accommodation that you need. Please contact Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov.

3. The rule as proposed to be amended provides as follows, new matter underlined, deleted matter interlined:

10.56.101 STUDENT ASSESSMENT (1) By the authority of 20-2-121(12), MCA and ARM 10.55.603, the Board of Public Education adopts rules for state-level assessment in the public schools and those private schools seeking accreditation.

(2) The board recognizes that the primary purpose of assessment is to serve learning. ~~Classroom assessment is the primary means through which assessment impacts instruction and learning for individuals. State-level and large-scale assessment affect learning through assisting policy decisions and assuring program quality for all students. To meet both classroom and state-level needs, state-level assessments will provide information about the proficiency level of student achievement relative to established content standards, as well as the status of Montana's schools in relation to other groups of students, states, and nations. The school and district responsibilities for assessment are identified in ARM 10.55.603.~~ A balanced assessment system including formative, interim, and summative assessments aligned to state content standards will provide an integrated approach to meeting both classroom learning needs and school and state level information needs. A balanced assessment system is structured to continuously improve teaching and learning and to inform education policy.

(3) In order to obtain state-level achievement information, all accredited schools shall annually administer a single system of state-level assessments approved by the board. The following state-level assessments shall be administered according to standardized procedures. Districts and schools shall ensure that all test administrators are trained in and follow those procedures.

(a) ~~State-level assessments shall aligned to Montana content standards (phase 1) and the Montana common core standards (phase 2) shall be administered to all students in grades four, eight and eleven in reading, communication arts, mathematics, science, and social studies. For planning purposes, state-level assessments shall be given during a week in the spring of the year, identified by the Office of Public Instruction a year prior to the assessment date. as specified below for each phase.~~

(i) Phase 1 – school years 2012-2013 and 2013-2014, the assessments shall be:

- (A) aligned to Montana content standards;
- (B) administered to grades 3-8 and 10 in math and reading;
- (C) administered to grades 4, 8, and 10 in science; and
- (D) administered in the spring of the year.

(ii) Phase 2 – beginning in school year 2014-2015, the assessments shall be:

- (A) aligned to Montana common core standards;
- (B) administered to grades 3-8 and 11 in math and English language arts;
- (C) aligned to Montana content standards for science and administered in grades 4, 8, and 10; and
- (D) administered in the spring of the year.

~~(b) All state State-level assessments results shall be provided to the Office of Public Instruction and school districts in a format specified by the Office of Public Instruction and approved by the Board of Public Education aligned to Montana English language proficiency standards shall be administered to all students identified as Limited English Proficient (LEP) in grades K-12. These assessments shall be administered mid-school year.~~

(c) Beginning in the 2012-13 school year, the ACT Plus Writing college readiness test shall be offered to all eleventh grade public school students in their high schools on a school day without charge to the students or schools. Students may participate without accommodations, with ACT-approved accommodations, or with state-allowed accommodations. The testing window for the ACT Plus Writing will be in April and May of each year. All eleventh grade students will take the test unless:

- (i) a parent or guardian requests in writing that the student not participate; or
- (ii) a student, 18 or older, requests in writing to not participate.

(d) The obligation for funding the assessments identified in (3)(a), (b), and (c) is an obligation of the state. This section may not be construed to require a school district to provide these assessments if the state does not have a current contract with test vendors for provision of these assessments to Montana school districts.

(4) State-level assessment results are a part of each student's permanent records as described in ARM 10.55.909.

~~(5) The Office Superintendent of Public Instruction shall provide a report of the results to the board, and the Legislature, and the public. Schools are encouraged to compare their results with the state results and share state-level assessment information with parents and local communities.~~

(6) The Superintendent of Public Instruction is authorized to make available the reported student assessment data in compliance with confidentiality requirements of federal and state law. State-level assessment results released to

the public shall be accompanied by a clear statement of the purposes of the assessments, subject areas assessed, level of measurement of the content standards, and the percent of students who participated in the assessments. ~~The release shall include additional information to provide a fair and useful context for assessment reporting (e.g., dropout rates, mobility rates, poverty levels, district size) that will assist districts to examine their educational programs to assure effectiveness.~~ The Superintendent of Public Instruction will ensure transparency and public availability of public school performance data and reporting as outlined in 20-7-104, MCA.

(7) All students shall participate in the state-level assessments, except as provided in (3)(d). ~~Students with disabilities or limited English proficiency (LEP) shall participate using the approved assessments, unless it is determined that a student's progress toward the content standards cannot be adequately measured with the approved assessments even when provided accommodations.~~

(a) For a students with disabilities, the student's individualized education program (IEP) teams ~~have~~ has the authority to specify accommodations to be provided, as defined in (8), for participation by the student in the state-level assessment.

(i) When an IEP team determines that an accommodation for a student's disability would still not allow for adequate measurement of the student's progress toward the content standards, the IEP team may waive using the approved state-level assessments by providing alternate assessments that are appropriate to determine the student's progress toward the content standards.

(b) For a students who ~~have~~ has been identified by ~~a team of educators through the district's process~~ as LEP, ~~those teams have the authority to specify accommodations to~~ may be provided, as defined in (8), for participation by the student in the state-level assessment.

(i) When the ~~team of educators~~ result of the district's process indicates ~~determines~~ that an accommodation for an LEP student who has had fewer than three years of instruction in English would still not allow for adequate measurement of the student's progress toward the content standards, the team of educators may waive using the approved state-level assessments by providing alternate assessments that are appropriate to determine the student's progress toward the content standards.

~~(c) The Office of Public Instruction shall provide guidance to schools concerning alternate state-level assessments.~~

(8) Accommodations allow a students to demonstrate competence in subject matter so that state-level assessment results accurately reflect the student's' achievement levels rather than limited English language development or impaired sensory or manual skills, except where those skills are the factors which the assessment purports to measure.

(a) Accommodations for state-level assessment purposes ~~is~~ are defined as modifications of the test administration procedures similar to those used to support and accommodate assess the student in the instructional setting.

(b) Accommodations may include, but are not limited to ~~extended time, small group administration, facilitator reading directions, native language support, student responding orally, or using required assistive technology.~~ Accommodations vary for

the state required tests under (3)(a) through (c) and are dependent on the knowledge and skills being measured. Test-specific accommodations are detailed in test administration manuals.

(c) The Office Superintendent of Public Instruction shall provide guidance to schools concerning appropriate accommodations.

AUTH: 20-2-121, MCA

IMP: 20-2-121, 20-7-402, MCA

4. REASON: The Board of Public Education has determined that it is reasonable and necessary to amend the above rule because Federal testing requirements have changed to require tests aligned to state content standards. Montana is in the process of adopting common core standards in core subjects. As the current content standards are replaced with common core standards the tests will be replaced with new tests aligned to the common core standards. Federal testing requirements have also changed requiring tests aligned to the Montana English language proficiency standards for students with Limited English Proficiency (LEP).

The Montana Office of the Commissioner of Higher Education was awarded a seven year grant for all public high schools to offer the ACT Plus Writing college readiness assessment to all eleventh grade students free of charge. The amendments to this rule require all schools to offer the ACT Plus Writing as an accreditation requirement.

5. Concerned persons may submit their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to: Peter Donovan, Executive Secretary, 46 North Last Chance Gulch, P.O. Box 200601, Helena, Montana, 59620-0601; telephone (406) 444-0302; fax (406) 444-0847; or e-mail pdonovan@mt.gov and must be received no later than 5:00 p.m., August 23, 2012.

6. Peter Donovan, Executive Secretary for the Board of Public Education has been designated to preside over and conduct this hearing.

7. The Board of Public Education maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies for which program the person wishes to receive notices. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to the contact person in 5 above or may be made by completing a request form at any rules hearing held by the board.

8. An electronic copy of this proposal notice is available through the Secretary of State's web site at <http://sos.mt.gov/ARM/Register>. The Secretary of State strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all

concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the Secretary of State works to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems.

9. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

/s/ Peter Donovan

Peter Donovan
Rule Reviewer

/s/ Patty Myers

Patty Myers, Chair
Board of Public Education

Certified to the Secretary of State July 16, 2012.